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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION**

In Re:

Case No. 04-47072-DML-11

JRL PROPERTIES INTERNATIONAL, INC.,  
  
 Debtor.

Chapter 11  
 (Pending in the United States Bankruptcy Court for the  
 Northern District of Texas, Fort Worth Division)

MICHAEL R. ALLEN,

Case No. C07-03382-PVT

Plaintiff,

**NOTICE OF MOTION FOR RELIEF FROM DEFAULT  
 AND TO ALLOW RESPONSE TO COUNTER-CLAIM  
 AND MOTION FOR RELIEF FOR FAILURE, IF ANY,  
 TO COMPLY WITH FEDERAL RULE OF  
 BANKRUPTCY PROCEDURE, RULE 9027(e)(3)**

v.

J. CRAIG HAMILTON, JR., individually and as  
 Trustee of PLEXCO TRUST, JOHN D. FARRALD, as  
 Trustee of PLEXCO TRUST, PLEXCO TRUST, a  
 California Trust, JRL PROPERTIES, INC., a Texas  
 corporation, and DOES 1-10, Inclusive,

**Date: September 18, 2007**

**Time: 10:00 a.m.**

**Judge: The Honorable Magistrate**

**Patricia V. Trumbull**

**Courtroom 5, Fourth Floor**

Defendants.

TO: DEFENDANTS, PLEXCO TRUST, J. CRIAG HAMILTON, JR. AND JOHN D. FARRALD, AS  
 TRUSTEE OF PLEXCO TRUST, and PLEXCO TRUST, AND TO THEIR COUNSEL OF RECORD:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on September 18, 2007, at the hour  
 of 10:00 a.m., or as soon as counsel can be heard, in the Courtroom of the Honorable Patricia V.  
 Trumbull, United States Magistrate Judge, situated at 280 South First Street, San Jose, California  
 95113, Plaintiff MICHAEL R. ALLEN will move the Court, and hereby does move the Court for an

1 ORDER relieving Plaintiff MICHAEL R. ALLEN of the default entered on August 9, 2007, and  
2 authorizing a response to the counter-claim (Exhibit "A" attached hereto) in the event this matter is  
3 not remanded to the state court; and striking the counter-claim and request for entry of default in  
4 the event the case is remanded to the state court and for relief for failure, if any, to comply with  
5 Federal Rule of Bankruptcy Procedure Rule 9027(e)(3).  
6

7 Said Motion is set for September 18, 2007 because this is the date and time set for  
8 Plaintiff's Motion to Remand the case to the State Court, and hearing both matters at said time on  
9 said date will provide for the expeditious administration of justice and will conserve scarce court  
10 resources.  
11

12 Said Motion will be made and based upon the fact that said default was taken by virtue of  
13 Plaintiff's mistake, inadvertence, surprise, or excusable neglect, and is based upon the provisions of  
14 FRCP Rules 55(c) and 60(b).  
15

16 Said Motion will further be based upon the Declaration of J.A. Hudson, submitted herewith,  
17 the Points and Authorities appended hereto; the papers, records and documents on file herein; and  
18 upon such other and further matters, oral and documentary, as shall come before the Court on  
19 hearing this matter.

20 Dated: August 17, 2007

GERSTL & HUDSON

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J.A. HUDSON

23 Attorney for Plaintiff/Moving Party  
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